

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES EDWARD TAYLOR, JR.,
Plaintiff,
v.
HO, et al.,
Defendants.

No. 2:23-cv-0005 AC P

ORDER AND FINDINGS AND
RECOMMENDATIONS

On May 23, 2024, defendant filed two motions to compel and a motion for judgment on the pleadings. ECF Nos. 33-35. On June 4, 2024, defendant filed a third motion to compel. ECF No. 36. After plaintiff failed to respond to any of the motions, he was ordered to do so within twenty-one days and cautioned that failure to do so would result in a recommendation that this action be dismissed without prejudice for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). ECF No. 41. The twenty-one-day period has now expired, and plaintiff has not filed a response to any of the motions or otherwise responded to the court's order.

In recommending this action be dismissed for failure to prosecute, the court has considered "(1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives." Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (citation omitted). Because this case cannot

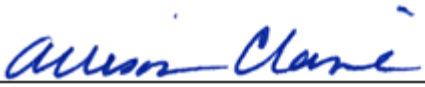
1 move forward without plaintiff's participation, the court finds the factors weigh in favor of
2 dismissal.

3 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court shall randomly
4 assign a United States District Judge to this action.

5 IT IS FURTHER RECOMMENDED that this action be dismissed without prejudice
6 pursuant to Federal Rule of Civil Procedure 41(b).

7 These findings and recommendations are submitted to the United States District Judge
8 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
9 after being served with these findings and recommendations, any party may file written
10 objections with the court and serve a copy on all parties. Such a document should be captioned
11 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
12 objections shall be filed and served within fourteen days after service of the objections. The
13 parties are advised that failure to file objections within the specified time may waive the right to
14 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

15 DATED: August 13, 2024

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17 ALLISON CLAIRE
18 UNITED STATES MAGISTRATE JUDGE
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